

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2003-0754, Patricia Hergenbahn v. Ross Hergenbahn; In the Matter of Ross Hergenbahn and Patricia Hergenbahn, the court on September 21, 2004, issued the following order:

Following a hearing on motions for contempt and other relief, the trial court found the respondent, Ross Hergenbahn, in contempt and ordered him to pay \$2500 in attorney's fees to counsel for the petitioner, Patricia Hergenbahn. On appeal, the respondent contends that the award constituted "an abuse of power by not affording [him] the ability to argue its reasonableness and further denying his due process standards of fairness and justice." We affirm.

The only issue briefed by the respondent is the standard to be applied by the trial court in reviewing a request for attorney's fees; we therefore confine our analysis to that issue. See Fastrack Crushing Servs. v. Abatement Int'l/Advatex Assocs., 149 N.H. 661, 664 (2003) (issues not briefed deemed waived). By finding the respondent in contempt in this case, the trial court found that he failed without just cause to obey both its previous order and the decree of divorce. Pursuant to RSA 458:51 (1992), the petitioner is therefore entitled to an award of attorney's fees. See N.H. Dep't of Resources and Economic Dev. v. Dow, 148 N.H. 60, 63 (2002) (generally use of word "shall" in statutory provision requires mandatory enforcement). Accordingly, we affirm the award of attorney's fees.

Affirmed.

NADEAU, DALIANIS and DUGGAN, JJ., concurred.

**Eileen Fox,
Clerk**

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